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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,434	12/06/2001	Mark John McGrath	450110-03710	2819

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EXAMINER	
NGUYEN, HUY THANH	
ART UNIT	PAPER NUMBER
2621	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/18/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/006,434	MCGRATH ET AL.	
	Examiner	Art Unit	
	HUY T. NGUYEN	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-14 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 06 December 2001 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 12/06/01,6/20/05.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

878DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 11-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11-14 are being direct to non functional information. Since the non functional information do not provide any impart to any software and hardware structural components for perform a function that is processed by a computer, the information themselves do not make them statutory (See MPEP 2100. It is noted that that the claimed computer software is neither a descriptive functional data nor structural data since the claimed computer software does not interact to any structural component to provide a function that is processed by a computer.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,7-14 rejected under 35 U.S.C. 102(b) as being anticipated by Fujii et al (6,788,878).

Regarding claim 1, Fujii discloses an replay apparatus comprising:

(i) a video material store (113);

(ii) a replay controller (709)216)for controlling replay of video material from said video material store; and

(iii) said replay controller being operable to control replay of video material stored in said store in accordance with associated data defining an information content of said video material (column 13, lines 1-25, column 15).

Regarding claim 7, Fujji discloses the data defining said information content of said video material comprises data defining image activity within said video material (motion in the video signal)(column 13, lines 10-25).

Regarding claim 9, Fujii discloses the apparatus according to claim 1, comprising an information content analyzer for deriving said information content data from said video material and/or associated audio material (column 13, lines 5-25)

Regarding claim 10, Fujii discloses a method of replaying stored video material, said method comprising said steps of controlling replay of video material from said video material store in accordance with associated data defining an information content of said video material column 13 lines 1-25, column 15).

Regarding claims 11-14, Fujii teaches à computer software having program code for carrying out a method since the replay of the vide material in

accordance with the associated data defining an information content is controlled by a CPU .

5. Claims 1-2 and 4-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Chotoku et al (6,728,473).

Regarding claim 1, Chotoku discloses an replay apparatus (Fig. 1, column 4) comprising:

(i) a video material store (6) (column 4,lines 3-40);

(ii) a replay controller (7) for controlling replay of video material from said video material store (column 4, lines 37-43); and

(iii) said replay controller being operable to control replay of video material stored in said store in accordance with associated data defining an information content of said video material (representative picture data) column 5, lines 20-56) .

Method claim 10 corresponds to apparatus claim 1. Therefore method claim 10 is rejected by the same reason as applied to apparatus claim 1.

Regarding claims 2 and 4, Chotoku further teaches the apparatus according to claim 1, in which said information data defines

information events within said video material, said replay controller being operable to replay said video material at so as to give a defined rate of information

events in said replayed sequence (fast or slow speed mode for DVD player under control by a user (column 4, lines 35-40).

Regarding claim 5, Chotoku further teaches the apparatus according to claim 1, in which said data defining said information content of said video material comprises data defining said presence of faces within said video material (Figs. 3 and 5).

Regarding claim 6, Chotoku further teaches the apparatus according to claim 1, in which said data defining said information content of said video material comprises data defining said presence of speech (audio) within audio material associated with said video material (Fig. 3, column 7 lines 3-45)).

Regarding claim 7, Chotoku teaches the data defining said information content of said video material comprises data defining image activity within said video material (motion in the video signal)(column 6).

Regarding claim 8, Chotoku further teaches the apparatus according to claim 1, in which said data defining said information content of said video material comprises data defining colour content of said video material (Fig. 4) .

Regarding claim 9, Chotoku further teaches the apparatus according to claim 1, comprising an information content analyzer for deriving said information content data from said video material and/or associated audio material (Fig. 3, column 7 lines 3-45).

Regarding claims 11-14, Chotoku teaches computer software having program code and a medium (column 9) .

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chotoku et al in view of Rastakonda (5,956,026).

Regarding claim 3, Chotoku fails to teach a user control, in which said replay controller is operable to vary a threshold information content to define an information even within said video material, in response to said user control.

Rastakonda teaches a user controller for varying a threshold information t define a an information even (column 4, lines 15- 30).

It would have been obvious to one of ordinary skill in the art to modify Chotoku with Rastakonda by providing the apparatus of Chotoku with a user control as taught by Rastakonda to define an information even thereby enhancing the capacity of the apparatus of Chotoku in selecting information even for viewing.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hibi et al teaches a recording and reproducing apparatus for generating content information used fro relaying the stored video material .

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H.N

HUY NGUYEN
PRIMARY EXAMINER